

## **Remarks**

This application has been carefully reviewed in light of the final Office Action mailed May 27, 2009. At the time of the Office Action, claims 1-29 were pending in the application. In the Office Action, the Examiner rejects claims 1-29. By this Amendment, Applicants have amended claims 1-18 and 24 to clarify the subject matter which the Applicants claim as the invention and to advance prosecution of this case. No new matter has been introduced by these amendments. Applicants do not admit that these amendments were necessary as a result of any cited art. Applicants respectfully request reconsideration of the above application in view of the following remarks.

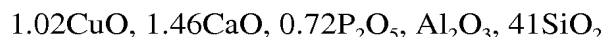
### **Anticipation Rejection**

Claims 1-3, 8, 10-15, 18-20, 22, 24 and 25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,427,753 (*Miura et al.*). Applicants respectfully traverse this rejection because *Miura et al.* fails to teach or suggest each and every feature of the pending claims.

The MPEP states that "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (citation omitted). The MPEP further states that "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *Id.* (citation omitted). Applicant submits that *Miura et al.* fails to satisfy these requirements with respect to the pending claims.

Independent claim 1 is directed to a catalyst composition for automotive exhausts. The catalyst composition resists coarsening. Independent claim 18 is directed to a NO<sub>x</sub> trap. Independent claim 24 is directed to a method of inhibiting coarsening in an automobile exhaust catalyst composition having a barium containing compound. Claims 1, 18 and 24 require a component having barium metal ions bonded to a phosphorus oxide. *Miura et al.* does not teach or suggest this limitation of claim 1. While *Miura et al.* discloses barium phosphate as phosphorus compounds usable for incorporating phosphorus into zeolite (col. 2, 1. 60- col. 3,

1. 4.), this incorporation does not result in a compound including barium metal ions bonded to a phosphorus oxide. The Examiner contends otherwise, opining that Example 8 of *Miura et al.* teaches this limitation. The molar ratio of the oxides on an anhydrous basis of Example 8 is as follows (col. 7, ll. 1-5):



As can be seen, this composition does not include barium metal ions bonded to a phosphorus oxide. Rather, calcium is bonded to an oxide. Assuming arguendo that barium is substitutable for calcium according to *Miura et al.*, Example 8 still does not disclose the subject matter of claim 1. For at least this reason, claim 1 is patentable over *Miura et al.*

Accordingly, favorable reconsideration and withdrawal of the rejection of claims 1, 18 and 24 and associated dependent claims under 35 U.S.C. §102(b) for at least the reason set forth above is respectfully requested.

Claims 2-3, 8, and 10-15, 18-20, 22, and 25 are believed to be allowable for at least the same reasons as their corresponding base claims and further due to the additional features they recite.

### **Obviousness Rejections**

Claims 4-7, 16, 21, 23, 26 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Miura et al.* in view of U.S. Pat. No. 5,064,803 (*Nunan*).

Claims 4-7, 16, 21, 23, 26 and 27 depend from one of independent claims 1, 18 or 24, each of which is shown above to be allowable over *Miura et al.* The pending independent claims 1, 18 and 24 are also patentable over the proposed combination of *Miura et al.* and *Nunan* for at least the reasons set forth below.

Claims 1, 18 and 24 require a component having barium metal ions bonded to a phosphorus oxide. As shown above, *Miura et al.* does not disclose or suggest this limitation. *Nunan* does not cure the deficient disclosure of *Miura et al.* According to the Examiner, *Nunan* teaches barium in the catalyst composition, acting as a promoter. (Office Action, May

27, 2009, p. 7.) According to *Nunan*, "[a]fter calcining ... the promoter elements will be present as their metal oxides." (col. 5, ll. 33-36.) *Nunan* does not disclose or suggest a catalyst composition including barium metal ions bonded to a phosphorus oxide.

The Examiner opines that the amount of the promoter will be about 1 to 20 wt% based on the catalyst. (*Id.*) While *Nunan* discloses barium compounds as promoters in an amount of about 1 to 20 wt. % based on the total weight of the catalyst, *Nunan* does not disclose or suggest the claimed barium compound in which barium metal ions are bonded to a conjugate based oxide of an inorganic acid." For at least this reason, claims 4-7, 16, 21, 23, 26 and 27 are allowable under 35 U.S.C. § 103(a) over *Miura et al.* in view of *Nunan*.

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Miura et al.* in view of U.S. Pat. Pub. No. 2003/0139288A1(*Cai et al.*) Claim 9 depends from independent claim 1 which is shown above to be allowable over *Miura et al.* *Cai et al.* does not cure the defective teachings of *Miura et al.* with respect to claim 9. Accordingly, claim 9 is allowable under 35 U.S.C. § 103(a) over *Miura et al.* in view of *Cai et al.*

Claim 17 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Miura et al.* in view of U.S. Pat. No. 5,747,401 (*Cuif*). Claim 17 depends from independent claim 1 which is shown above to be allowable. *Cuif* does not cure the defective teachings of *Miura et al.* with respect to claim 17. Accordingly, claim 17 is allowable under 35 U.S.C. § 103(a) over *Miura et al.* in view of *Cuif*.

Applicants do not acquiesce in the Office's characterizations of the art. For brevity and to advance prosecution, Applicants may not have addressed all characterizations of the art and reserve the right to do so in further prosecution of this or a subsequent application. The absence of an explicit response by Applicants to any of the Office's positions does not constitute a concession to the Office's positions. The fact that Applicants' comments have focused on particular arguments does not constitute a concession that there are not other arguments for patentability of the claims. Applicants submit that all of the dependent claims are patentable for at least the reasons given with respect to the claims on which they depend.

**CONCLUSION**

For the foregoing reasons, Applicants have fully responded to the Office Action of May 27, 2009. Consequently, in view of the above amendments and remarks, Applicants respectfully submit that the application is in condition for allowance, which allowance is respectfully requested.

The Commissioner is hereby authorized to charge the two-month extension fee of \$490 and any fee deficiency associated with the filing of this Paper to the Deposit Account of Applicants' assignee, Ford Global Technologies LLC, Deposit Account No. 06-1510.

If the Examiner believes that an in-person interview with Applicants' attorney and an inventor would advance the prosecution of this application in any manner, the Examiner is invited to contact Matthew M. Jakubowski, Attorney for Applicants, at Examiner's convenience at (248) 358-4400.

Respectfully submitted,

**HUNGWEN JEN ET AL.**

By /Matthew M. Jakubowski/

Matthew M. Jakubowski  
Reg. No. 44,801  
Attorney for Applicants

Date: October 27, 2009

**BROOKS KUSHMAN P.C.**  
1000 Town Center, 22nd Floor  
Southfield, MI 48075-1238  
Phone: 248-358-4400  
Fax: 248-358-3351